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The pertinent provisions of § 12-6B-09 of the Act state: Grounds for reprimand or

denial, probation, suspension, or revocation of registration:

Subject to the hearing provision of § 12-315 of this title, the Board may deny a pharmacy technician's registration to any applicant, reprimand a registered pharmacy technician, place any pharmacy technician's registration on probation, or suspend or revoke a pharmacy technician's registration if the applicant or pharmacy technician registrant:

- (23) Violates any provision of this title;
- (24) Is disciplined by a licensing, registering, or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes[;].

The Board also denies the Applicant a registration for violation of the following provision:

§ 12-6B-02. Qualifications

- (a) In general. -- To qualify for registration an applicant shall be an individual who:
 - (2) Meets the requirements of this section.
- (b) Good moral character; -- The applicant shall:
 - (1) Be of good moral character [;].

BASES OF DENIAL

The Board bases its decision to deny the registration for the foregoing reasons which the Board has reason to believe are true:

1. The Applicant filed an application for registration in Maryland as a Pharm Tech, dated December 12, 2012.
2. Under the "Personal Attestation for All Applicants" section of the application, the Applicant answered the following questions in the affirmative
 - A. Question 1: "Has any state licensing or disciplinary board (including

Maryland) or any similar agency in the Armed forces, denied your application for registration, reinstatement or renewal, or taken any action against any registration or license held by you? Such actions include but are not limited to, limitations on the registration, education, admonishment, reprimand, suspension or revocation.”

- B. Question 2: “Has any state licensing or disciplinary board (including Maryland) or similar agency in the Armed Forces, filed any complaint or charges against you or investigated you for any reason?”
- C. Question 3: “Have you surrendered or failed to renew a healthcare registration or license in any state?”
- D. Question 5: “Has your employment by any pharmacy, clinic, healthcare practice or wholesale drug distributor been terminated for disciplinary reasons?”
- E. Question 7: “Excluding minor traffic violations, are you currently under arrest or released on bond, or are there any current or pending charges against you in any court of law?”

3. All affirmative responses required a detailed explanation and supporting documentation. The Applicant’s Attorney submitted a response in a letter dated November 27, 2012, as follows:

- A. Question 1 (disciplinary action by an agency): “[The Applicant’s] Maryland Certified Nursing Assistant (CNA) *license*¹ (*sic*) was summarily suspended by the Maryland Board of Nursing on April 13,

¹The Applicant was issued a certificate, as a Certified Nursing Assistant.

2011, pending further investigation of a patient complaint.² An evidentiary hearing was requested by [the Applicant] regarding the suspension. That hearing has not yet occurred. However, [the Applicant's] Maryland CNA *license (sic)* has now expired and he has no intention of renewing it."

- B. Question 2 (Agency filed Charges or investigated): "On April 13, 2011, the Maryland Board of Nursing issued a Summary Suspension Order of [the Applicant's] *license (sic)* pending an evidentiary hearing on the allegations. [The Applicant] has denied any wrongdoing. To date, an evidentiary hearing has not been held and the matter remains unresolved with the Maryland Board of Nursing, but negotiations to surrender his now-expired *license (sic)* are now ongoing. A copy of the Order for Summary Suspension of Certified Nursing Assistant Certificate and Notice of Charges is attached for your review." (No documents are attached hereto.)
- C. Question 3 (surrender or failure to renew registration or license) "[The Applicant's] Maryland Certified Nursing Assistant *license (sic)* has expired and has not been renewed. He has no intention of renewing his CNA *license (sic)*."
- D. Question 5 (Has employment in...healthcare practice...been terminated for disciplinary reason): "On February 16, 2011, [the Applicant's] employment with Hospital A³ in Takoma Park, Maryland

²Two patients filed a complaint against the Applicant.

³The name of the hospital is confidential for purposes of this document.

Was terminated for “failing to follow the instructions of your manager”. The instruction [the Applicant] allegedly failed to follow was to have a second employee present when dealing with a female and/or non-English speaking patients.⁴ A copy of his termination letter as well as the instructions in question, given to him by his supervisor is attached for your review.” (No documents are attached hereto.)

- E. Question 7 (Current or pending charges against you in any court of law?): “On February 25, 2011, criminal charges were filed against [the Applicant] in Montgomery County, Maryland. On October 11, 2011, following nearly eight months of investigation, the State of Maryland elected to terminate the prosecution of [the Applicant] due to a lack of evidence supporting the charges against him. He has consistently and adamantly denied the allegations, which stem from events alleged to have occurred in late October of 2010 and early February of 2011 while working at Hospital A in Takoma Park, Maryland.”⁵

During the course of the State’s investigation, [the Applicant] was subjected to two police administered Truth Verification Examinations on December 7, 2010. During the Truth Verification Examinations, [the Applicant] was subjected to computerized voice stress analysis. [The Applicant] denied the allegations against him during the exam

⁴The Applicant was also instructed to get an interpreter for non-English speaking patients.

⁵The allegations included second degree assault (2 counts), third degree sex offense (2 counts), fourth degree sex offense (2 counts) and abusers of vulnerable adult. The allegations were initially filed under case numbers OD00243600 and 6D00243599 in the District Court. The cases were subsequently consolidated and

and the Certified Voice Stress Examiner verified that his responses were truthful. That is, he truthfully denied the allegations. A copy of the Truth Verifications Examination report is attached for your review.

(No documents are attached hereto.)

The State's Attorney terminated prosecution of the case due to lack of evidence by marking the case "stet" for a period of three years. A "stet" case may only be reinstituted within one year of being placed in "stet" status, or thereafter for "good cause" (see Maryland Rule 4-248). More than a year has passed since the "stet" period began on October 11, 2011. Because the prosecution against [the Applicant] is de facto over and may not be reinstated at this point absent good cause, he does not currently have any active charges pending against him."

4. As set forth in the Order for Summary Suspension (which is still in effect until the Board of Nursing issues a final Order, because a license/certificate cannot lapse while a case is pending), the Board of Nursing based its action on the following:

- A. On February 25, 2011, the Board of Nursing received a complaint from Hospital A that [the Applicant] had been terminated from employment following an investigation;
- B. The complaint stated that [the Applicant] had failed to follow his supervisor's instructions and had also sexually assaulted patients he was charged to care for;
- C. The first patient, who was non-English speaking, reported that a staff

forwarded to the Circuit Court for Montgomery County, Maryland under case number 118020-C.

person, whom she later identified as [the Applicant,] slapped and squeezed her breast and crotch.

D. A second female patient also reported that [the Applicant] had rubbed her breasts and grabbed at her crotch.

E. As a result of these allegations, Hospital A placed [the Applicant] on administrative leave.

F. [The Applicant] was subsequently terminated from employment and criminal charges were issued against him,

5. On November 5, 2010, [the Applicant's] supervisor sent him a notice that indicated the following with regard to non-english-speaking (*sic*) and/or female patients:

A. Ensure that he uses the services of a bi-lingual staff when caring for non-english speaking (*sic*) patients;

B. Explain all procedures and make sure the patient understands, before he performs any services;

C. If, after explaining to a female patient that his care involves exposing any private area, he is to inquire whether that patient consents to his performing same, and, if the patient objects, to get a female practitioner to do so;

D. If he is uncomfortable while performing care on any female patient, he is to ask for the assistance of a female caregiver,

6. Due to the above-described allegations of assault on patients, on February 16, 2011, Hospital A terminated his employment.

7. At a hearing held in the Circuit Court of Maryland for Montgomery County, on

October 11, 2011, based upon the criminal charges enumerated above, the Prosecutor in those proceedings put the following on the record:

"We are steting (*sic*) this case, Your Honor, for a period of three years. [The Applicant] has agreed to the sole condition that during that three year period, in the course of his employment, he not engage in any unsupervised contact with adult female, vulnerable adults." The Applicant informed the Judge that he understood the stet and its sole condition.

8. As set forth above, the Applicant violated the Act and his application is denied.

C ONCLUSIONS OF LAW

Based upon the above, the Board concludes, as a matter of law, that the Applicant violated 12-6B-09 (23) and (24); 12-6B-02 (a) (2) and (b) (1) of the Act.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 18th day of February, ²⁰¹⁵~~2014~~ hereby ORDERED that the application of **REGINALD SOTERO**, for registration as a Pharm Tech is hereby **DENIED**.

It is further ORDERED that this Final Order shall be a public document, pursuant to Md. State Govt. Code Ann. § 10-617(h) (2009 Repl. Vol. and 2012 Supp.).

NOTICE OF RIGHT OF APPEAL

In accordance with Md. Health Occ. Code Ann. § 12-316 (2009 Repl. Vol.) and Md. State Govt. Code Ann. § 10-201, et seq., (2009 Repl. Vol.) you have a right to a direct judicial appeal of this decision. A petition for appeal of the Final Board Order shall

be filed within thirty days from your receipt of this Final Order and shall be made in accordance with the forecited authority.

2/18/2015
Date

Lenna Israbian-Jamgochian
Lenna Israbian-Jamgochian, Pharm.D.,
President
Board of Pharmacy